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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,169	01/12/2002	William P. Apps	2046	4362
33171	7590	05/25/2005	EXAMINER	
KONSTANTINE J. DIAMOND 4010 E. 26TH STREET LOS ANGELES, CA 90023				MEREK, JOSEPH C
3727		ART UNIT		PAPER NUMBER

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/047,169	APPS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Joseph C. Merek	3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 06 January 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-7 and 9-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7, 9-31, 33, and 34 is/are rejected.
- 7) Claim(s) 32,35 and 36 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-4, 9-15, 17, 19, 20, 23-26, 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Overholt (US 6,631,822). Regarding claims 1 and 23, see Figs. 1-15, where the structure is shown. Fig. 16 shows the two hinge portions 88, which are adjacent to each other. Regarding claim 2, the cylindrical only requires that the member be of or like a cylinder. Cylindrical does not require an exact or perfect cylinder. The movement will be generally perpendicular to the axis as claimed. Since the structure of the reference is the same as that of the instant invention then it is inherent that the movement will be the same. Regarding claim 3, the second upper member is adjacent the first upper member as seen in Fig. 16. Regarding claim 4, see Fig. 18. The latches hold the strikers securely. Regarding claim 9, the flange extends downwardly as seen in Fig. 15. Regarding claims 10-12, see Fig. 15. Regarding claims 13 and 14, see Fig. 11 where the arms are shown and are capable of performing the claimed function. Regarding claim 14, there is an arm on each end of the hinge member. Moreover, there

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are arms on the two portions as seen in Fig. 11. Regarding claims 15 and 26, see Figs. 14 and 15 where the concave surface is shown. The member is concave downward and the pin member makes contact with the concave surface as shown in Fig. 14.

Regarding claim 17, as it is best understood, the striker and the latch are a snap fit.

Regarding claim 18, the beveled surface will flex. Regarding claim 19, the since the arms are curved or in an arc they extend both away from and back toward each other as they extend inwardly of the container and there is an interference portion. Regarding claim 20, see Fig. 18b, where the curved surfaces of 54 are angled inwardly of the container and away from each other before they turn and angle towards each other.

Regarding claim 22, the latch is capable of performing as claimed. Regarding claims 23 and 24, the second one of hinge portions 88 is capable of limiting movement in a lateral direction as seen in Fig. 14. The hinge will limit outward lateral movement when the stop portion contacts the elongated or flat portion of the pin. Regarding claim 25, see

Fig. 14 where the flat portion of the pin will deflect the flange inwardly of the container.

Regarding claim 26, the concave under surface of 86 engages and supports the pin as seen in Fig. 14. Regarding claim 31, the direction of insertion is substantially perpendicular to the axis. Regarding claim 33 and 34 see Fig. 15 where the arms abut the lower hinge portions for limiting lateral movement in both directions.

Claims 1-7, 10, 15-24, 27-31, 33, and 34 are rejected under 35 U.S.C. 102(a) as being anticipated by Mouri (JP 2001-130554). Regarding claims 1 and 2, see Figs. 8, 11, 12, 14 and 15. There are four upper hinge portions (203) shown which are spaced along the lower end of the sidewall. Fig. 14 shows that the upper hinge portion

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203 is cylindrical. Fig. 10 shows the latch and the striker as 308b' and 207d'.

Regarding claim 3, see Figs. 5 where the upper members are adjacent to each other.

The second one of 203 will limit lateral movement since the cylindrical hinge is received under member 106 as seen in Figs. 14 and 15. Regarding claim 4, see Fig. 10 where the beveled surfaces are on 207d'. Regarding claims 5 and 6, see Figs. 14 and 15

where the stop portion is the downward extension 106c. Regarding claim 7, the

lowermost edge of 106c abuts the upper hinge portion since it makes contact at the

centerline of hinge portion 203. Regarding claim 9, the flange 106 c extends

downwardly as seen in Figs. 14 and 15. Regarding claim 10, see the discussion of

claim 7 above. Regarding claim 15, see Fig. 15 where the surface is concave

downwardly, which supports the second hinge portion 203. Regarding claim 16, see

Fig. 15 where the opening 106b' is sized to receive 203b and limit lateral movement in a

direction generally parallel to the base. The curvature will limit left to right movement

parallel to the base. Regarding claim 17, see Figs. 10 and 13 where the snap fit occurs.

Member 207d' snaps behind 308b'. Regarding claim 18, see Fig. 10 where the

structure is shown and the beveled portions 308b' will flex to allow 207d' to pass there

through. Regarding claim 19, see fig. 10 where arms 308b are angled inwardly of the

container and slightly away from each other. Regarding claim 20, see Fig. 10 where

207d' has surfaces closer to 207d" which are angled inwardly and away from each

other and these surfaces abut arm 308b. Regarding claim 21, see Figs. 10, 12, and 13,

where the flat front surface of 207d' will abut the flat part of the wall located at the edge

of the opening between arms 308b. The term abut only requires the two to border each

other. Regarding claim 22, due to the beveled rear surfaces of 207d' as seen in Fig. 10 latch and striker are capable of performing as claimed. Regarding claims 23 and 24, see Fig. 14 and 15 and the above discussions. Regarding claim 27, see Figs. 10 and 13 where the latch receiver is 308b and 308b' and the latch is 207d. Regarding claim 28, see the above discussion of claim 22. Regarding claim 29, see Fig. 10, where the upper one of 308b will flex outwardly towards the open top of the container. Regarding claim 30, see Fig. 10, where the 308b' are the interference portion. Regarding claim 31, the direction of insertion as seen in Figs. 14 and 15 will be substantially perpendicular to the axis of the hinge. The substantially allows for variation from exactly perpendicular. Regarding claim 33, see Fig. 9, where the arms are 203a. Regarding claim 34, the arms will abut portion 106 to limit movement along the axis in both directions.

#### ***Allowable Subject Matter***

Claims 32, 35 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed 8/20/04 have been fully considered but they are not persuasive. Applicant argues that neither Overholt nor Mori teach the second upper hinge portions or second lower hinge portions. Each reference teaches a plurality of both upper and lower hinge portions between a sidewall and the base of the container.

This is a non-final action since claim 31 was not treated in the previous office action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is 571 272-4542. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (571) 272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph C. Merek  
Primary Examiner  
Art Unit 3727